

1 Lowell F. Sutherland, Esq.
California State Bar #37721
2 SUTHERLAND & GERBER
A Professional Corporation
3 Attorneys at Law
1443 W. Main Street
4 El Centro, California 92243
(760)353-4444 (Telephone)
5 (760)352-2533 (Facsimile)

6
7 Attorneys for Claimants, Larry Allen and
Del Norte Chevrolet-Olds. Co.

8
9 **UNITED STATES BANKRUPTCY COURT**
10 **IN AND FOR THE SOUTHERN DISTRICT OF NEW YORK**
11

12 IN RE:

13 MOTORS LIQUIDATION COMPANY, *et al.*,
f/k/a General Motors Corp., *et al.*

14 Debtors.
15

Chapter 11 Case No.

09-50026 (REG)

RESPONSE TO OMNIBUS MOTION FILED
BY MOTORS LIQUIDATION COMPANY

DATE: January 14, 2010

TIME: 9:30 a.m. (Eastern Time)

DEPT:

Honorable Robert E. Gerber
18

19 The claims Del Norte Chevrolet-Olds Co. does not amend or supercede the claim of Larry
20 Allen. (Both filed 10/05/09). Both Del Norte Chevrolet-Olds. Co. and Larry Allen are plaintiffs in
21 the underlying action in the United States District Court for the Southern District of California, Case
22 Number 07 CV 1621 LAB, and both assert the same claim. See the Complaint attached to the
23 claims as Imperial County Superior Court Case No. ECU03448. Plaintiffs, claimants herein,
24 acknowledge that there is only one debt but contend that it is jointly owned by each of the claimants,
25 hence the filing of claims in each name. Payment of one claim satisfies the other.

26 Pursuant to the terms of the agreement upon which the Southern District Court case is based,
27 the matter has been referred to mediation and subsequently arbitration. This arbitration was pending
28 at the time the Debtor filed this proceeding. Presumably any dispute regarding liability or damages

1 would be determined in that arbitration pursuant to the terms of the pre-bankruptcy agreement. **In re**
2 **Gurga**, (9th Cir. BAP (Cal.) 1994) 176 B.R. 196, 200; **In re Crysen/Montenay Energy Co.**, (2nd
3 **Cir. 2000)** 226 F.3d 160, 165 - 166.

4 Claimants request that the Omnibus Motion be denied.

5
6 DATED: January 7, 2010

SUTHERLAND & GERBER
A Professional Corporation

7
8
9 By: 

10 Lowell F. Sutherland,
11 Attorneys for Claimants, Del Norte
12 Chevrolet-Olds. Co. and Larry Allen
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA; COUNTY OF IMPERIAL

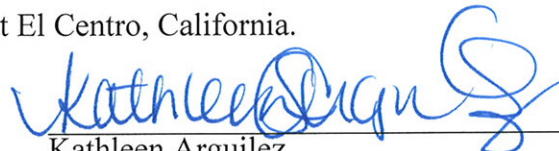
I am a citizen of the United States; I am over the age of 18 years and not a party to this action; I am employed in Imperial County, California, and my business address is 1443 West Main Street, El Centro, California 92243.

On January 8, 2010, I served the interested party(ies) in this action as listed below the following document(s) described as: **RESPONSE TO OMNIBUS MOTION FILED BY MOTORS LIQUIDATION COMPANY**

- ☐ by placing true copies thereof enclosed in a sealed envelope addressed as stated on the attached service list.
- ☒ **BY MAIL:** I am readily familiar with SUTHERLAND & GERBER's practice for collection and processing of correspondence for mailing with the United States Postal Service and that all correspondence will be deposited with the United States Postal Service the same day in the ordinary course of business.
- ☐ **BY FACSIMILE:** At approximately _____, I caused said document(s) to be transmitted by facsimile. The telephone number of the sending facsimile machine was (760)352-2533. The name(s) and facsimile machine telephone number(s) of the person(s) served are set forth in the service list. The document was transmitted by facsimile transmission, and the sending facsimile machine properly issued a transmission report confirming that the transmission was complete and without and without error.
- ☐ **BY OVERNIGHT DELIVERY:** I deposited such document(s) in a box or other facility regularly maintained by the overnight service carrier, or delivered such document(s) to a courier or driver authorized to receive documents, in an envelope or package designated by the overnight service carrier with delivery fees paid or provided for, addressed to the person(s) served hereunder.
- ☐ **BY HAND DELIVERY:** I delivered such envelope(s) by hand to the office of the addressee(s)
- ☐ **BY PERSONAL SERVICE:** I personally delivered such envelope(s) to the addressee(s).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. I declare that I ☒ am employed in the office of a member of the bar of this court at whose direction the service was made; ☐ served the above document(s) at the direction of a member of the bar of this court.

Executed on January 8, 2010, at El Centro, California.


Kathleen Arguilez

SERVICE LIST

IN RE: MOTORS LIQUIDATION COMPANY, et al.
U.S. Bankruptcy Court, Southern District of New York
Case No. 09-50026 (REG)

Bruce Silvers
Bingham McCutchen LLP
One State Street
Hartford, CT 06103-3178

Scott Rosevear
Wells Fargo Bank Northwest, N.A.,
as Indenture Trustee
79 South Main Street, 3rd Floor
Salt Lake City, UT 84111

U.S. Bank Trust National Association
Attn: Deborah Ibrahim
225 Asylum Street, 23rd Floor
Hartford, CT 06103-2819

Paul Procyk
The Prudential Insurance Co. of America
Three Gateway Center
Newark, NJ 07102-4077

Edwards Angell Palmer & Dodge, LLP
Atty for U.S. Bank Nat'l Assoc. and
U.S. Bank Trust Natl Assoc.
Attn: Rich Hiersteiner, J. Darcey, A. Zuccarello,
J. Grovers, C. Bodell & J. Whitlock
111 Huntington Avenue
Boston, MA 02199-7613

Hunton & Williams, LLP
Attn: Peter Partee
200 Park Avenue
New York, NY 10166

SMBC Leasing Investment, LLC
277 Park Avenue
New York, NY 10172

American Family Insurance
Attn: Phillip Hannifan
6000 American Pkwy
Madison, WI 53783-0001

Hughes Hubbard & Reed, LLP
Attn: Steven J. Greene
One Battery Park Plaza
New York, NY 10004

1 Physicians Mutual Insurance Company
Attn: Paul Procyk
2 Three Gateway Center
Newark, NJ 07102-4077

3 Prudential Annuities Life Assurance Corp.
Attn: Paul Procyk
4 Three Gateway Center
5 Newark, NJ 07102-4077

6 Winston & Strawn, LLP
Attn: Arnold G. Gough, Jr.
7 35 W. Wacker Drive
Chicago, IL 60601-9703

8 BTMU Capital Corporation
Attn: Phillip Kirkham
9 420 Fifth Avenue
10 New York, NY 10015

11 James W. Giddens, as Trustee for Sipa Liquid of Lehm
Hughes, Hubbard & Reed, LLP
12 One Battery Park Plaza
New York, NY 10004

13 Pruco Life Insurance Co. of New York
Attn: Paul Procyk
14 Three Gateway Center
15 Newark, NJ 07102-4077

16 Prudential Retirement Insurance Co. & Annuity Co.
Attn: Paul Procyk
17 Three Gateway Center
Newark, NJ 07102-4077

18 PNC Leasing LLC
Attn: James E. Graham
19 One PNC Plaza, 18th Floor
20 249 Fifth Avenue
Pittsburgh, PA 05222

21 Textron Financial Corporation
Attn: Jane M. Lavoie
22 40 Westminister Street
23 Providence, RI 02903

24 Daniel R. Murray, Esq.
Jenner & Block, LLP
25 330 N. Wabash Avenue
Chicago, IL 606011

26 David R. Berz, Esq.
Weil Gotshal & Manges, LLP
27 1330 Eye Street, NW
Suite 900
28 Washington, DC 20005

1 Donald F. Baty, Jr., Esq.
Joseph R. Sgroi, Esq.
2 Judy B. Calton, Esq.
Robert B. Weiss, Esq.
3 Tricia A. Sherick, Esq.
Honigman Miller Schwartz and Cohn, LLP
4 2290 First National Bldg.
660 Woodward Avenue
5 Detroit, MI 48226

6 Harvey R. Miller, Esq.
Stephen Karotkin, Esq.
7 Robert J. Lemons, Esq.
Joseph H. Smolinsky, Esq.
8 Weil, Gotshal & Manges, LLP
767 Fifth Avenue
9 New York, NY 10153

10 Patrick J. Trostle, Esq.
Jenner & Block, LLP
11 919 Third Avenue
37th Floor
12 New York, NY 10022

13 Andrew D. Velez-Rivera
Brian Shoichi Masumoto
14 Office of the U.S. Trustee
33 Whitehall Street
15 21st Floor
16 New York, NY 10004

17 Jeffrey S. Stein, Esq.
The Garden City Group, Inc.
18 105 Maxess Road
Melville, NY 11747
19

20 Adam C. Rogoff, Esq.
Amy Caton, Esq.
21 Gordon Z. Novad, Esq.
Gregory G. Plotko, Esq.
22 Robert T. Schmidt, Esq.
Thomas Moers Mayer, Esq.
23 Kramer Levin Naftalis & Frankel, LLP
1177 Avenue of the Americas
24 New York, NY 10036-2714

25 Eric Fisher, Esq.
Butzel Long, APC
26 380 Madison Avenue
22nd Floor
27 New York, NY 10017
28